IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6478 OF 2003

Yogesh Sharadchandra Shah ..... Petitioner

Versus

The Malegaon Merchants Co-op.Bank Ltd. and Ors. ... Respondents.

Mr. Umesh Nikam for the petitioner.
Mr. C.R. Sonawane, Assistant Government Pleader, for respondent Nos. 1 to 3.

CORAM: **KSHITIJ R. VYAS, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **MARCH 20, 2006**.

P.C.

The petitioner is a shareholder of respondent No.1, the Malegaon Merchants Co-op. Bank Limited. The petitioner has applied for and obtained a loan in the sum of Rs. 4,00,000/- for his business on 17th June, 1995. According to the petitioner, due to unavoidable circumstances, he could not repay the above loan to respondent No.1-Bank.

2. It appears that on the basis of certain guidelines issued by the Reserve Bank of India, respondent No.1-Bank offered One Time

Settlement to the borrowers. The petitioner applied for repayment of the loan as per One Time Settlement in view of the directions of the Reserve Bank of India and as per the Government Resolutions dated 5th January, 2002 and 11th March, 2003, on 9th July, 2003. Since the first respondent-Bank refused to accept repayment of loan as per One Time Settlement, the petitioner has approached this Court with a prayer to quash and set aside the letter dated 21st July, 2003, issued by the first respondent-Bank and for appropriate directions to accept the repayment of loan from the petitioner by implementing One Time Settlement Scheme as per the guidelines issued by the Reserve Bank of India and the Resolutions of the State Government.

3. An affidavit in reply has been filed on behalf of respondent No.1 Bank. It has been pointed out by the deponent that the recovery certificate had been issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960. On the basis of the decision of this Court in Writ Petition No. 8222 of 2003 (*The Sathe Biscuits & Chocolates Company Ltd. and anr. vs. Bank of Maharashtra and Ors)* dated December 04, 2003, the petitioner has no right to claim One Time Settlement. It has been pointed out that the Reserve Bank of India has left it to each individual Banks to take a decision. It has also been

pointed that the petitioner being a persistent defaulter, benefit of One Time Settlement has been denied to him. It may be stated that in the cognate petition filed by the petitioner being Writ Petition No. 6822 of 2003 seeking the similar relief, this Court has rejected the same on the ground that the petitioner, as a matter of right, is not entitled to claim the benefit of One Time Settlement. In view of this, this petition is also required to be rejected on these grounds and it is rejected accordingly.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.